

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

CARLOS E. GUTIERREZ

PLAINTIFF

v.

Civil No. 05-5083

CORPORAL WESLEY KERN

DEFENDANT

ORDER

On September 7, 2006, the Honorable Jimm Larry Hendren entered an order giving plaintiff twenty days to amend his complaint to assert an individual capacity claim against the defendant and to file a motion to substitute the personal representation of the estate of the defendant as a party defendant in this case (Doc. 42). On September 14, 2006, plaintiff filed the motion to amend and substitute (Doc. 43). The motion is granted.

Accordingly, the complaint is considered to be amended to assert an individual capacity claim against Corporal Wesley Kern. Additionally, Jerah Kern, in her capacity as Personal Representative of the Estate of Wesley Kern, is hereby substituted as a defendant in this case. **The clerk is directed to substitute Jerah Kern as Personal Representative for the Estate of Wesley Kern as a defendant in place of Corporal Wesley Kern.**

The court, having heretofore entered an order allowing the plaintiff to proceed *in forma pauperis*, hereby directs the United States Marshal to serve Jerah Kern in her capacity as Personal Representative for the Estate of Wesley Kern. It is believed Jerah Kern last resided with her husband, Wesley Kern, at 304 E. Rogers Street, Lincoln, Arkansas 72744-9065. Jerah Kern is to be served without prepayment of fees and costs or security therefor. Jerah Kern is ordered to answer within twenty (20) days from the date of service.

IT IS SO ORDERED this 25th day of September 2006.

/s/ Beverly Stites Jones
UNITED STATES MAGISTRATE JUDGE